

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	Civil Action No. 18-cv-804
)	
v.)	
)	COMPLAINT
WALMART STORES EAST, LP, and)	(Jury Trial Demand)
WALMART, INC.,)	
)	
Defendants.)	
)	
)	

NATURE OF THE ACTION

This is an action, under Title VII of the Civil Rights Act of 1964 (“Title VII”) and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices based on religion and to provide appropriate relief to Edward Hedican, a Christian (Seventh Day Adventist) applicant for employment with Walmart Stores East, LP, and Walmart, Inc. (collectively “Walmart”). Specifically, Walmart discriminated against him by refusing to accommodate his religious observance of the Sabbath and by rescinding his employment offer in retaliation for seeking that accommodation.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Wisconsin.

PARTIES

3. The plaintiff, Equal Employment Opportunity Commission (“EEOC”), is the agency of the United States of America charged with administering, interpreting, and enforcing Title VII and is expressly authorized to bring this action by Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Walmart, Inc. has continuously been and is now a Delaware corporation that operates numerous stores throughout the nation, including Store #3245, located at 15594 State Highway 77 in Hayward, Wisconsin. Walmart, Inc. has continuously been and is now doing business in the State of Wisconsin and the City of Hayward, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Walmart, Inc. has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

6. At all relevant times, Walmart Stores East, LP has continuously been and is now a general limited partnership registered in Delaware that operates numerous stores throughout the nation, including Store #3245, located at 15594 State Highway 77 in Hayward, Wisconsin. Walmart Stores East, LP has continuously been and is now doing business in the State of Wisconsin and the City of Hayward, and has continuously had at least fifteen (15) employees.

7. At all relevant times, Walmart Stores East, LP has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

ADMINISTRATIVE PROCEDURES

8. More than 30 days before institution of this lawsuit, Edward Hedican filed a charge with the EEOC alleging Walmart had violated Title VII.

9. On May 31, 2018, the EEOC issued to Walmart a Letter of Determination finding reasonable cause to believe that Title VII was violated and inviting Walmart to join with the EEOC in informal methods of conciliation to endeavor to eliminate the unlawful employment practices and provide appropriate relief.

10. The EEOC engaged in communications with Walmart to provide it the opportunity to remedy discriminatory practices described in the Letter of Determination.

11. On August 30, 2018, the EEOC issued to Walmart a Notice of Conciliation Failure advising Walmart that the EEOC was unable to secure from Walmart a conciliation agreement acceptable to the EEOC.

12. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

13. Beginning on or about May 18, 2016, Walmart engaged in unlawful employment practices relating to its Walmart Supercenter, Store #3245, located at 15594 State Highway 77 in Hayward, Wisconsin, in violation of Title VII, by denying Mr. Hedican reasonable accommodation and retaliating against him:

(a) On May 1, 2016, Mr. Hedican accepted via email an Assistant Manager position at Store #3245.

(b) On the same email he accepted the position, Hedican asked Walmart not to schedule him from sundown on Fridays to sundown on Saturdays, during which he observes the Sabbath in accordance with his religion, Seventh Day Adventist.

(c) On May 2, Walmart's representative sent Mr. Hedican an accommodation packet to fill out. He completed and returned the packet.

(d) On May 11, Walmart's Accommodation Service Center in Bentonville, Arkansas notified Mr. Hedican that his religious accommodation request was closed because the Center does not approve religious accommodations.

(e) On May 18, Walmart's representative sent Mr. Hedican an email denying his accommodation request and rescinding the employment offer Mr. Hedican had accepted on May 1.

14. The effect of the practices complained of in paragraph 13 has been to deprive Mr. Hedican of equal employment opportunities because of his religion, in violation of Title VII.

15. The unlawful employment practices complained of in paragraph 13 were intentional.

16. The unlawful employment practices complained of in paragraph 13 were done with malice or with reckless indifference to Mr. Hedican's federally protected rights.

PRAYER FOR RELIEF

Wherefore, the EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining Walmart and its subsidiaries, officers, agents, servants, employees, successors, and assigns, and all persons in active concert or participation with them, from engaging in any employment practice which discriminates based on religion;

B. Order Walmart to institute and carry out policies, practices, and programs which provide equal employment opportunities and which eradicate the effects of its past and present unlawful employment practices;

C. Order Walmart to make Mr. Hedican whole by providing appropriate back pay with pre- and post-judgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of the unlawful employment practices described in

paragraph 13 above, including, but not limited to, hiring Mr. Hedican or providing front pay in lieu thereof;

D. Order Walmart to make Mr. Hedican whole by providing compensation for past and future pecuniary and non-pecuniary losses resulting from the unlawful employment practices described in paragraph 13 above, including (but not limited to) emotional pain, suffering, and inconvenience, loss of enjoyment of life, and humiliation, in an amount to be determined at trial;

E. Order Walmart to pay Mr. Hedican punitive damages for its malicious and reckless conduct described in paragraph 13 above, in an amount to be determined at trial;

F. Grant such further relief as the Court deems necessary and proper in the public interest; and

G. Award the EEOC its costs of this action.

JURY TRIAL DEMAND

The EEOC requests a jury trial on all questions of fact raised by its complaint.

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Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

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Dated: September 27, 2018

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Dated: September 27, 2018

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